

REFERENCE TITLE: school buildings; vacancy lists

State of Arizona
House of Representatives
Forty-ninth Legislature
First Regular Session
2009

HB 2389

Introduced by
Representative Biggs

AN ACT

AMENDING SECTIONS 15-189 AND 15-905, ARIZONA REVISED STATUTES; RELATING TO
SCHOOL BUILDINGS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 15-189, Arizona Revised Statutes, is amended to read:

15-189. Charter schools; vacant buildings; list; used equipment

A. EACH SCHOOL DISTRICT, INCLUDING ANY SCHOOL DISTRICT IN RECEIVERSHIP PURSUANT TO SECTION 15-103, SHALL ANNUALLY PUBLISH ON ITS WEBSITE A LIST OF VACANT AND UNUSED BUILDINGS AND VACANT AND UNUSED PORTIONS OF BUILDINGS THAT ARE OWNED OR LEASED BY THE SCHOOL DISTRICT. THE LIST SHALL INCLUDE THE ADDRESS OF EACH BUILDING AND A SHORT DESCRIPTION OF THE BUILDING. EACH SCHOOL DISTRICT SHALL SOLICIT BIDS TO LEASE AND SUBLEASE BUILDINGS AND PORTIONS OF BUILDINGS ON THE LIST. IF AN APPLICANT FOR A CHARTER SCHOOL OR AN EXISTING CHARTER SCHOOL SUBMITS A WRITTEN OFFER TO LEASE OR SUBLEASE A BUILDING OR PORTION OF A BUILDING ON THE LIST, THE SCHOOL DISTRICT SHALL LEASE OR SUBLEASE THE BUILDING OR PORTION OF THE BUILDING TO THE APPLICANT OR THE CHARTER SCHOOL AT FAIR MARKET VALUE AND AT REASONABLE MARKET TERMS.

~~A.~~ B. The department of education, in conjunction with the department of administration, shall annually publish a list of vacant and unused buildings and vacant and unused portions of buildings that are owned by this state ~~or by school districts in this state~~ and that may be suitable for the operation of a charter school. The department of education shall make the list available to applicants for charter schools and to existing charter schools. The list shall include the address of each building, a short description of the building and the name of the owner of the building. Nothing in this ~~section~~ SUBSECTION requires the owner of a building on the list to sell or lease the building or a portion of the building to a charter school or to any other school or to any other prospective buyer or tenant.

~~B.~~ C. A school district may sell used equipment to a charter school before the school district attempts to sell or dispose of the equipment by other means.

Sec. 2. Section 15-905, Arizona Revised Statutes, is amended to read:

15-905. School district budgets; notice; adoption; aggregate budget limit; summary; adjustments; definition

A. Not later than July 5 of each year or no later than the publication of notice of the public hearing and board meeting as required by this section, the governing board of each school district shall prepare and furnish to the superintendent of public instruction and the county school superintendent, unless waived by the county school superintendent, a proposed budget in electronic format for the budget year, which shall contain the information and be in the form as provided by the department of education. The proposed budget shall include the following:

1. The total amount of revenues from all sources that was necessary to meet the school district's budget for the current year.

1 2. The total amount of revenues by source that will be necessary to
2 meet the proposed budget of the school district, excluding property
3 taxes. The governing board shall prepare the proposed budget and a summary
4 of the proposed budget. Both documents shall be kept on file at the school
5 district office and shall be made available to the public upon request. The
6 auditor general in conjunction with the department of education shall
7 prescribe the form of the summary of the proposed budget for use by governing
8 boards. School district governing boards may include in the proposed budget
9 any items or amounts which are authorized by legislation filed with the
10 secretary of state and which will become effective during the budget
11 year. If subsequent events prevent the legislation from becoming effective,
12 school district governing boards must reduce their budgets by the amounts
13 budgeted pursuant to the legislation which did not become effective.

14 B. The governing board of each school district shall prepare a notice
15 fixing a time not later than July 15 and designating a public place within
16 each school district at which a public hearing and board meeting shall be
17 held. The governing board shall present the proposed budget for
18 consideration of the residents and the taxpayers of the school district at
19 such hearing and meeting.

20 C. The governing board of each school district shall publish or mail,
21 prior to the hearing and meeting, a copy of the proposed budget or the
22 summary of the proposed budget and, in addition, a notice of the public
23 hearing and board meeting no later than ten days prior to the meeting. The
24 proposed budget and the summary of the proposed budget shall contain the
25 percentage of increase or decrease in each budget category of the proposed
26 budget as compared to each category of the budget for the current
27 year. Notification shall be either by publication in a newspaper of general
28 circulation within the school district in which the size of the newspaper
29 print shall be at least eight-point type, by electronic transmission of the
30 information to the department of education for posting on the department's
31 ~~web-site~~ WEBSITE or by mailing the information to each household in the
32 school district. The cost of publication, ~~web-site~~ WEBSITE posting or
33 mailing shall be a charge against the school district. The publisher's
34 affidavit of publication shall be filed by the governing board with the
35 superintendent of public instruction within thirty days after publication.
36 If the budget or proposed budget and notice are posted on a ~~web-site~~ WEBSITE
37 maintained by the department of education or mailed, the board shall file an
38 affidavit with the superintendent of public instruction within thirty days
39 after the mailing or the date that the information is posted on the ~~web-site~~
40 WEBSITE. If a truth in taxation notice and hearing is required under section
41 15-905.01, the governing board may combine the notice and hearing under this
42 section with the truth in taxation notice and hearing.

43 D. At the time and place fixed in the notice, the governing board
44 shall hold the public hearing and present the proposed budget to the persons
45 attending the hearing. Upon request of any person, the governing board shall

1 explain the budget, and any resident or taxpayer of the school district may
2 protest the inclusion of any item. A governing board member who has a
3 substantial interest, as defined in section 38-502, in a specific item in the
4 school district budget shall refrain from voting on the specific item. A
5 governing board member may PARTICIPATE without creating a conflict of
6 interest ~~participate~~ in adoption of a final budget even though the member may
7 have substantial interest in specific items included in the budget.

8 E. Immediately following the public hearing the president shall call
9 to order the governing board meeting for the purpose of adopting the
10 budget. The governing board shall adopt the budget, which shall not exceed
11 the general budget limit, the unrestricted capital budget limit or the soft
12 capital allocation limit, making such deductions as it sees fit but making no
13 additions to the proposed budget total for maintenance and operations or
14 capital outlay, and shall enter the budget as adopted in its minutes. Not
15 later than July 18, the budget as finally adopted shall be filed by the
16 governing board with the county school superintendent who shall immediately
17 transmit a copy to the board of supervisors. Not later than July 18, the
18 budget as finally adopted shall be submitted electronically to the
19 superintendent of public instruction. On or before October 30, the
20 superintendent of public instruction shall review the budget and notify the
21 governing board if the budget is in excess of the general budget limit, the
22 unrestricted capital budget limit or the soft capital allocation limit. If
23 the governing board receives notification that the budget is in excess of the
24 general budget limit, the unrestricted capital budget limit or the soft
25 capital allocation limit by fewer than one thousand dollars, the governing
26 board shall adjust the budget and expenditures so as not to exceed the
27 general budget limit, the unrestricted capital budget limit or the soft
28 capital allocation limit for the current year. If the governing board
29 receives notification that the budget is in excess of the general budget
30 limit, the unrestricted capital budget limit or the soft capital allocation
31 limit by one thousand dollars or more, it shall ADOPT on or before December
32 15, after it gives notice and holds a public meeting in a similar manner as
33 provided in subsections C and D of this section, ~~adopt~~ a revised budget for
34 the current year, which shall not exceed the general budget limit, the
35 unrestricted capital budget limit or the soft capital allocation limit. On
36 or before December 18, the governing board shall file the revised budget
37 ~~which~~ it adopts with the county school superintendent who shall immediately
38 transmit a copy to the board of supervisors. Not later than December 18, the
39 budget as revised shall be submitted electronically to the superintendent of
40 public instruction. School districts that are subject to section 15-914.01
41 are not required to send a copy of revised budgets to the county school
42 superintendent. Procedures for adjusting expenditures or revising the budget
43 shall be as prescribed in the uniform system of financial records.

1 F. The governing board of each school district may budget for
2 expenditures within the school district budget as follows:

3 1. Amounts within the general budget limit, as provided in section
4 15-947, subsection C, may only be budgeted in the following sections of the
5 budget:

6 (a) The maintenance and operation section.

7 (b) The capital outlay section.

8 2. Amounts within the unrestricted capital budget limit, as provided
9 in section 15-947, subsection D, may only be budgeted in the unrestricted
10 capital outlay subsection of the budget. Monies received pursuant to the
11 unrestricted capital budget limit shall be placed in the unrestricted capital
12 outlay fund. The monies in the fund are not subject to reversion.

13 3. The soft capital allocation limit, as provided in section 15-947,
14 subsection E, may only be budgeted in the soft capital allocation subsection
15 of the budget.

16 G. The governing board may authorize the expenditure of monies
17 budgeted within the maintenance and operation section of the budget for any
18 subsection within the section in excess of amounts specified in the adopted
19 budget only by action taken at a public meeting of the governing board and if
20 the expenditures for all subsections of the section do not exceed the amount
21 budgeted as provided in this section. ~~Until June 30, 1999, the governing~~
22 ~~board may authorize the expenditure of monies to exceed the budgeted~~
23 ~~expenditures of the capital outlay section of the budget only by action taken~~
24 ~~at a public meeting of the governing board and if monies are available in the~~
25 ~~reserve.~~

26 H. The aggregate budget limit is the sum of the following:

27 1. The general budget limit as determined in section 15-947 for the
28 budget year.

29 2. The unrestricted capital budget limit as determined in section
30 15-947 for the budget year.

31 3. The soft capital allocation limit for the budget year as determined
32 in section 15-947.

33 4. Federal assistance, excluding P.L. 81-874 monies.

34 I. School districts which overestimated tuition revenues as provided
35 in section 15-947, subsection C, paragraph 2 shall adjust the general budget
36 limit and expenditures based upon tuition revenues for attendance of
37 nonresident pupils during the current fiscal year. School districts which
38 underestimated tuition revenues may adjust their budgets prior to May 15
39 based upon tuition revenues for attendance of nonresident pupils during the
40 current fiscal year. School districts which overestimated revenues as
41 provided in section 15-947, subsection C, paragraph 2, subdivision (a), items
42 (iii), (iv) and (v) and subdivision (d) shall adjust the general budget limit
43 and expenditures based on actual revenues during the current fiscal
44 year. School districts which underestimated such revenues may adjust their
45 budgets before May 15 based on actual revenues during the current fiscal

1 year. Procedures for completing adjustments shall be as prescribed in the
2 uniform system of financial records. Not later than May 18, the budget as
3 adjusted shall be submitted electronically to the superintendent of public
4 instruction.

5 J. A common school district not within a high school district whose
6 estimated tuition charge for high school pupils exceeds the actual tuition
7 charge for high school pupils shall adjust the general budget limit and
8 expenditures based on the actual tuition charge. Not later than May 18, the
9 budget as adjusted shall be submitted electronically to the superintendent of
10 public instruction. A common school district not within a high school
11 district whose estimated tuition charge for high school pupils is less than
12 the actual tuition charge for high school pupils may adjust its budget before
13 May 15 based on the actual tuition charge. Procedures for completing
14 adjustments shall be as prescribed in the uniform system of financial
15 records. If the adjusted general budget limit requires an adjustment of
16 state aid and if the adjustment to state aid is not made in the current year,
17 the superintendent of public instruction shall adjust by August 15 of the
18 succeeding fiscal year the apportionment of state aid to the school district
19 to correct any overpayment or underpayment of state aid received during the
20 current year.

21 K. The governing board may include P.L. 81-874 assistance allocated
22 for children with disabilities, children with specific learning disabilities,
23 children residing on Indian lands and children residing within the boundaries
24 of an accommodation school that is located on a military reservation and that
25 is classified as a heavily impacted local educational agency pursuant to 20
26 United States Code section 7703 which is in addition to basic assistance when
27 determining the general budget limit as prescribed in section 15-947,
28 subsection C. The increase in the general budget limit for children residing
29 within the boundaries of an accommodation school that is located on a
30 military reservation and that is classified as a heavily impacted local
31 education agency shall equal the dollar amount calculated pursuant to 20
32 United States Code section 7703(b)(2). The governing board may adjust before
33 May 15 the budget for the current year based on any adjustments which result
34 in increases over the amount estimated by the superintendent of public
35 instruction for P.L. 81-874 assistance for such pupils for the fiscal year
36 preceding the current year. The governing board shall adjust before May 15
37 the budget for the current year based on any adjustments which result in
38 decreases in the amount estimated by the superintendent of public instruction
39 for P.L. 81-874 assistance for such pupils for the fiscal year preceding the
40 current year. Not later than May 18, the budget as adjusted shall be
41 submitted electronically to the superintendent of public instruction.
42 Procedures for complying with this subsection shall be as prescribed in the
43 uniform system of financial records.

1 L. The state board of education shall hold a hearing if expenditures
2 by any school district exceed the general budget limit prescribed in section
3 15-947, subsection C, the unrestricted capital budget limit, the soft capital
4 allocation limit prescribed in section 15-947, subsection E, the school plant
5 fund limits prescribed in section 15-1102, subsection B, the maintenance and
6 operation section of the budget or the capital outlay section of the
7 budget. If the expenditures of any school district exceed these limits or
8 sections of the budget without authorization as provided in section 15-907,
9 the state board of education shall reduce the state aid for equalization
10 assistance for education for the school district computed as provided in
11 section 15-971 during the fiscal year subsequent to the fiscal year in which
12 the excess expenditures were made by an amount equal to the excess
13 expenditures, except that in case of hardship to the school district, the
14 superintendent of public instruction may approve reductions partly in the
15 first subsequent year and partly in the second subsequent year.

16 M. The governing board of a school district shall reduce the general
17 budget limit, the unrestricted capital budget limit or the soft capital
18 allocation limit, ~~—~~ for the year subsequent to the year in which the
19 expenditures were in excess of the applicable limit or section of the budget
20 by the amount determined in subsection L of this section, except that in case
21 of hardship to the school district, the superintendent of public instruction
22 may approve reductions partly in the first subsequent year and partly in the
23 second subsequent year. The reduction in the limit is applicable to each
24 school district which has exceeded the general budget limit, the unrestricted
25 capital budget limit, the soft capital allocation limit or a section of the
26 budget even if the reduction exceeds the state aid for equalization
27 assistance for education for the school district.

28 N. Except as provided in section 15-916, no expenditure shall be made
29 by any school district for a purpose not included in the budget or in excess
30 of the aggregate budget limit prescribed in this section, except that if no
31 budget has been adopted, from July 1 to July 15 the governing board may make
32 expenditures if the total of the expenditures does not exceed ten per cent of
33 the prior year's aggregate budget limit. Any expenditures made from July 1
34 to July 15 and prior to the adoption of the budget shall be included in the
35 total expenditures for the current year. No expenditure shall be made and no
36 debt, obligation or liability shall be incurred or created in any year for
37 any purpose itemized in the budget in excess of the amount specified for the
38 item irrespective of whether the school district at any time has received or
39 has on hand funds in excess of those required to meet the expenditures,
40 debts, obligations and liabilities provided for under the budget except
41 expenditures from cash controlled funds as defined by the uniform system of
42 financial records and except as provided in section 15-907 and subsection G
43 of this section. This subsection does not prohibit any school district from
44 prepaying insurance premiums or magazine subscriptions, or from prepaying any
45 item which is normally prepaid in order to procure the service or to receive

1 a discounted price for the service, as prescribed by the uniform system of
2 financial records.

3 0. The governing board of a school district which is classified as a
4 heavily impacted school district having twenty per cent or more pupils
5 pursuant to 20 United States Code section 238(d)1(A) may determine its
6 eligibility to increase the amount that may be included in determining the
7 general budget limit as provided in subsection K of this section and may
8 increase the amount as follows:

9 1. For fiscal year 1988-1989:

10 (a) Multiply one thousand ninety-four dollars by the number of
11 children with disabilities or children with specific learning disabilities,
12 excluding children who also reside on Indian lands, reported to the division
13 of impact aid, United States department of education in the district's
14 application for fiscal year 1987-1988.

15 (b) Multiply five hundred forty-seven dollars by the number of
16 children residing on Indian lands, excluding children who have disabilities
17 or also have specific learning disabilities, reported to the division of
18 impact aid, United States department of education in the district's
19 application for fiscal year 1987-1988.

20 (c) Multiply one thousand nine hundred fourteen dollars by the number
21 of children residing on Indian lands who have disabilities or also have
22 specific learning disabilities reported to the division of impact aid, United
23 States department of education in the district's application for fiscal year
24 1987-1988.

25 (d) Add the amounts determined in subdivisions (a) through (c).

26 (e) If the amount of P.L. 81-874 assistance as provided in subsection
27 K of this section is less than the sum determined in subdivision (d) of this
28 paragraph, the district is eligible to use the provisions of this subsection.

29 2. For budget years after 1988-1989, use the provisions of paragraph 1
30 of this subsection, but increase each dollar amount by the growth rate for
31 that year as prescribed by law, subject to appropriation and use the number
32 of children reported in the appropriate category for the current fiscal year.

33 3. If the district is eligible to use the provisions of this
34 subsection, subtract the amount of P.L. 81-874 assistance determined in
35 subsection K of this section from the sum determined in paragraph 1,
36 subdivision (d) of this subsection. The difference is the increase in the
37 amount that may be included in determining the general budget limit as
38 provided in subsection K of this section, if including this amount does not
39 increase the district's primary tax rate for the budget year. If the amount
40 of P.L. 81-874 assistance determined in subsection K of this section is
41 adjusted for the current year, the increase determined in this paragraph
42 shall be recomputed using the adjusted amount and the recomputed increase
43 shall be reported to the department of education by May 15 on a form
44 prescribed by the department of education.

1 4. If a district uses the provisions of this subsection, the district
2 is not required to adjust its budget for the current year based on
3 adjustments in the estimated amount of P.L. 81-874 assistance as provided in
4 subsection K of this section.

5 P. A school district, except for an accommodation school, which
6 applies for P.L. 81-874 assistance during the current year may budget an
7 amount for P.L. 81-874 administrative costs for the budget year. The amount
8 budgeted for P.L. 81-874 administrative costs is exempt from the revenue
9 control limit and may not exceed an amount determined for the budgeted year
10 as follows:

11 1. Determine the minimum cost. The minimum cost for fiscal year
12 1990-1991 is two thousand three hundred forty-three dollars. For fiscal year
13 1991-1992 and thereafter, the minimum cost is the minimum cost for the prior
14 year increased by the growth rate as prescribed by law, subject to
15 appropriation.

16 2. Determine the hourly rate. The hourly rate for fiscal year
17 1990-1991 is nine dollars thirty-eight cents. For fiscal year 1991-1992 and
18 thereafter, the hourly rate is the hourly rate for the prior year increased
19 by the growth rate as prescribed by law, subject to appropriation.

20 3. Determine the P.L. 81-874 revenues available by subtracting the
21 amount of P.L. 81-874 assistance used to increase the general budget limit as
22 provided in subsections K and O of this section for the current fiscal year
23 from the total amount of P.L. 81-874 revenues received in the current fiscal
24 year.

25 4. Determine the total number of administrative hours as follows:

26 (a) Determine the sum of the following:

27 (i) 1.00 hours for each high impact pupil who is not disabled or does
28 not have specific learning disabilities.

29 (ii) 1.25 hours for each high impact pupil who is disabled or has
30 specific learning disabilities.

31 (iii) 0.25 hours for each low impact pupil who is not disabled or does
32 not have specific learning disabilities.

33 (iv) 0.31 hours for each low impact pupil who is disabled or has
34 specific learning disabilities.

35 (b) For the purposes of this paragraph:

36 (i) "High impact pupil" means a pupil who resides on Indian lands or a
37 pupil who resides on federal property or in low rent housing and whose parent
38 is employed on federal property or low rent housing property or is on active
39 duty in uniformed service, as provided in P.L. 81-874, section 3(a) and as
40 reported in the application for P.L. 81-874 assistance in the current year.

41 (ii) "Low impact pupil" means a pupil who resides on nonfederal
42 property and has a parent who is employed on federal property or low rent
43 housing property or is on active duty in a uniformed service or a pupil who
44 resides on federal property or in low rent housing and who does not have a
45 parent who is employed on federal property or low rent housing property or is

1 on active duty in uniformed service, as provided in P.L. 81-874, section 3(b)
2 and as reported in the application for P.L. 81-874 assistance in the current
3 year.

4 5. Multiply the total number of administrative hours determined in
5 paragraph 4 of this subsection by the hourly rate determined in paragraph 2
6 of this subsection.

7 6. Determine the greater of the minimum cost determined in paragraph 1
8 of this subsection or the product determined in paragraph 5 of this
9 subsection.

10 7. Add to the amount determined in paragraph 6 of this subsection the
11 amount, if any, to be expended by the school district in the budget year
12 through an intergovernmental agreement with other school districts or the
13 department of education to provide P.L. 81-874 technical assistance to
14 participating districts.

15 8. Determine the lesser of the amount determined in paragraph 7 of
16 this subsection or the revenues available as determined in paragraph 3 of
17 this subsection.

18 9. The amount determined in paragraph 8 of this subsection is the
19 maximum amount which may be budgeted for P.L. 81-874 administrative costs for
20 the budget year as provided in this subsection.

21 10. If the governing board underestimated the amount that may be
22 budgeted for P.L. 81-874 administrative costs for the current year, the board
23 may adjust the general budget limit and the budget before May 15. If the
24 governing board overestimated the amount that may be budgeted for P.L. 81-874
25 administrative costs for the current year, the board shall adjust the general
26 budget limit and the budget before May 15.

27 Q. If a school district governing board has adopted a budget for a
28 fiscal year based on forms and instructions provided by the auditor general
29 and the department of education for that fiscal year and if, as a result of
30 the enactment or nonenactment of proposed legislation after May 1 of the
31 previous fiscal year, the budget is based on incorrect limits, does not
32 include items authorized by law or does not otherwise conform with law, the
33 governing board may revise its budget at a public hearing on or before
34 September 15 to conform with the law. Not later than September 18, the
35 budget as adjusted shall be submitted electronically to the superintendent of
36 public instruction. If the governing board does not revise the budget on or
37 before September 15 and if the budget includes any items not authorized by
38 law or if the budget exceeds any limits, the governing board shall adjust or
39 revise the budget as provided in subsection E of this section.

40 R. EACH SCHOOL DISTRICT SHALL INCLUDE A SEPARATE SECTION IN THE BUDGET
41 THAT PROVIDES AN ITEMIZED LIST OF THE SQUARE FOOTAGE OF BUILDINGS AND
42 PORTIONS OF BUILDINGS THAT ARE OWNED OR LEASED BY THE SCHOOL DISTRICT AND
43 THAT ARE NOT REGULARLY USED TO PROVIDE CLASSROOM INSTRUCTION OR
44 EXTRACURRICULAR SERVICES DIRECTLY TO PUPILS.

1 ~~R.~~ S. For the purposes of this section, "P.L. 81-874 assistance"
2 means, for the current year, an amount equal to the final determination of
3 P.L. 81-874 assistance for the fiscal year preceding the current year as
4 confirmed by the division of impact aid, United States department of
5 education or, if a final determination has not been made, the amount
6 estimated by the superintendent of public instruction as confirmed by the
7 division of impact aid, United States department of education and, for the
8 budget year, an amount equal to the determination of P.L. 81-874 assistance
9 for the fiscal year preceding the budget year as estimated by the
10 superintendent of public instruction.